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DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-168161

DATE: November 7, 1977

MATTER OF: Mrs. D. Russelle Hedley - Claim for living quarters allowance

DIGEST: Former overseas teacher requests reconsideration of Claims settlement and prior decisions denying her claim for living quarters allowance. Prior decisions are sustained since Army's determination that her presence in the area was not for travel or formal study is consistent with our decisions and is not unreasonable, arbitrary, or capricious.

This action is in response to the request for reconsideration from Mrs. D. Russelle Hedley of the settlement issued September 24, 1973, by our Claims Division denying Mrs. Hedley's claim for living quarters allowance while employed as a teacher with the Defense Department Overseas Dependents' School System. The question of Mrs. Hedley's entitlement to living quarters allowance has also been the subject of two prior decisions of our Office, B-168161, November 16, 1973, and May 14, 1971.

The facts in this case are fully set forth in the Claims Division settlement and our prior decisions and will not be repeated here except where pertinent. In requesting reconsideration Mrs. Hedley again states that her presence in Germany was attributable to travel and that it was not until after she had decided to stay in Germany and accept employment that her husband enrolled in Heidelberg University Medical School. Mrs. Hedley acknowledges that it was her job which determined the location of the family, but she argues that she sought employment so that she could remain in Germany and travel while employed.

Under the authority of section 7 of Public Law 86-91, '73 Stat. 216 (1959), overseas teachers are entitled to quarters allowance under regulations which shall be prescribed by or under the authority of the President. (Emphasis added). These regulations, the Standardized Regulations (Government Civilians, Foreign Areas), as quoted at length in our decision of November 16, 1973, provide in section 031.12d that an employee who is hired at the overseas post must have been temporarily in the foreign area for travel or formal study prior to their being hired. As we held in Ronald H. Davis, 54 Comp. Gen. 149 (1974), the determination of

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whether an individual's presence in a foreign area is for travel or formal study is one which, to a large degree, involves the exercise of judgment and discretion.

The Department of the Army's determination that Mrs. Hedley's travel to the foreign area was for the purpose of seeking employment is consistent with our decisions. See B-141722, February 2, 1961. As stated in our prior decision of May 14, 1971, B-168161, we can take exception to such a determination only if it is found to be unreasonable, arbitrary, or capricious. We have reviewed the arguments presented by Mrs. Hedley in requesting reconsideration, but we cannot say that the Army's determination was unreasonable.

Accordingly, we sustain our Claims settlement and our prior decisions.


Deputy Comptroller General
of the United States